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No. 13 IN OPPOSITION TO THE RESOLUTION REPORTED FROM
THE COMMITTEE ON PRIVILEGES AND ELECTIONS "THAT
REED SMOOT IS NOT ENTITLED TO A SEAT AS A SENATOR
OF THE UNITED STATES FROM THE STATE OF UTAH."

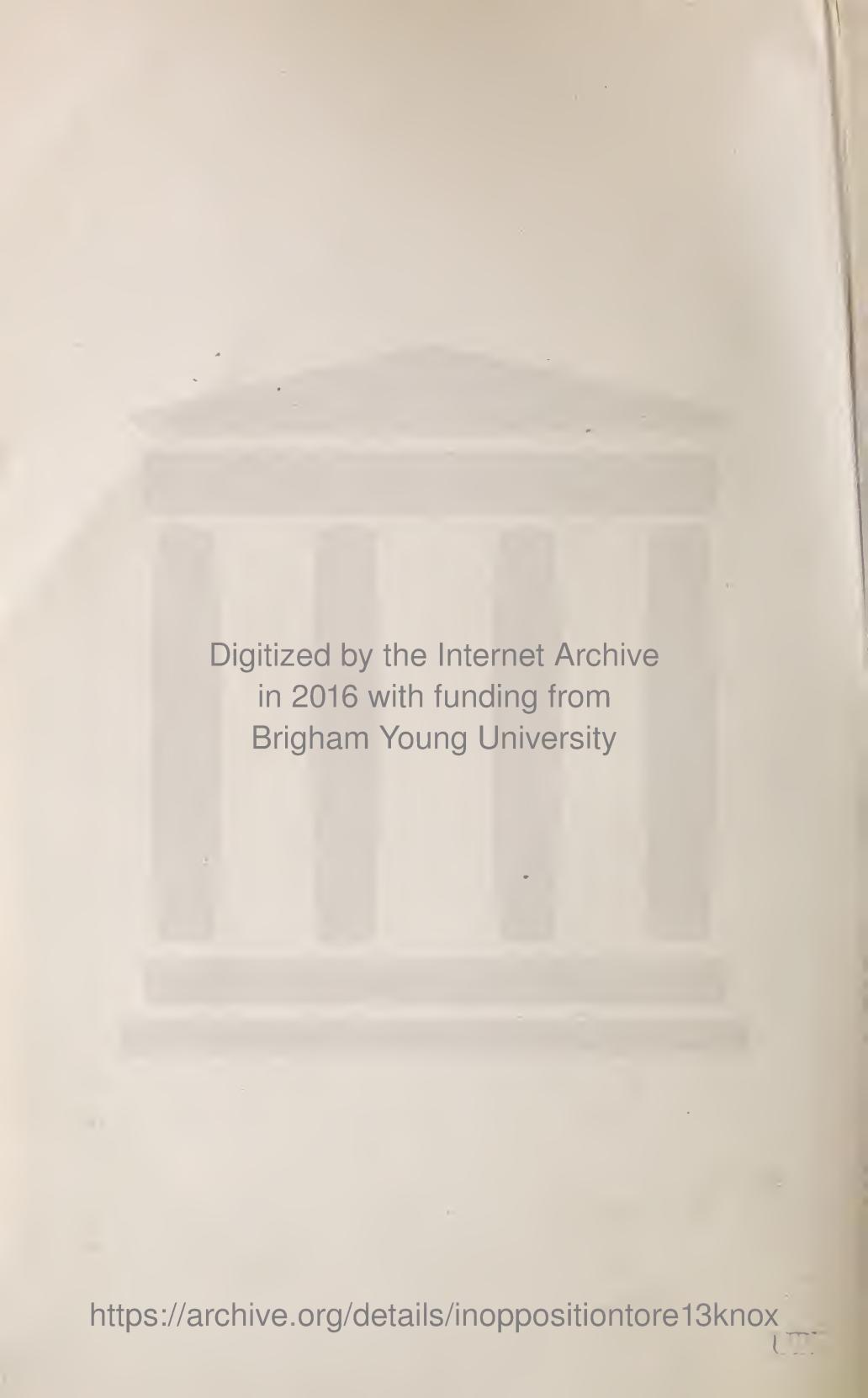
SPEECH
OF
HON. PHILANDER C. KNOX
(OF PENNSYLVANIA)

IN THE
SENATE OF THE UNITED STATES

THURSDAY, FEBRUARY 14, 1907



WASHINGTON
1907



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SPEECH OF HON. PHILANDER C. KNOX.

The Senate having under consideration the following resolution:

Resolved, That REED SMOOT is not entitled to a seat as a Senator of the United States from the State of Utah.

Mr. KNOX said:

Mr. PRESIDENT: The Territory of Utah was admitted as a State by proclamation of the President on January 4, 1896 (29 Stat. L., 876), that Territory having, by the adoption of its constitution of November 5, 1805, fully complied with the terms of the enabling act of July 16, 1894 (28 Stat. L., 107). This enabling act stated the terms upon which Utah would be admitted into the Union.

Congress by this act authorized the admission of Utah on condition that its convention should pass an "ordinance irrevocable without the consent of the United States and the people of said State," providing, "first, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship: *Provided*, That polygamous or plural marriages are forever prohibited.

This was the agreement between the people of the Territory of Utah and the United States, the condition upon which, for their mutual benefit, the State was admitted.

It constitutes a compact concerning the Mormon question in Utah. The Mormons were to forever prohibit the making of plural marriages. Otherwise they were not to be disturbed about their religion. Fetters on their minds were not sought to be imposed. The destruction of their existing families was not required.

Utah was admitted on equal terms with the other States, since by reason of the Constitution it had to be. She is entitled *inter alia* to representation in the Senate. If any valid condition was imposed upon her, it was the irrevocable ordinance providing for perfect toleration of religious sentiment and prohibiting polygamous marriages.

Senator Smoot was regularly elected to represent the equal State of Utah in the Senate. The Senate is now asked to expel him and deprive the State of one of its votes arbitrarily. Can it do so? Certainly it has the power, but only as Congress has power to refuse all appropriations or the Senate to ratify all treaties or confirm all appointees.

Utah has not the power to maintain its right to representation, but this fact adds to the necessity of the Senate proceeding dispassionately and judicially when the right of a State to its senatorial choice is challenged. If it were otherwise, the States would be nothing more than nominating powers, and the Senate would merely confirm or refuse to confirm such nominations. This is not the office of the Senate.

But should the Senate expel Senator Smoot, and why? He should not be expelled for believing in the Mormon religion. The irrevocable ordinance expressly, and with Mormonism in view, guaranteed religious toleration in the State of Utah. He should not be expelled for being a member or officer of the Mormon Church for the same reason. He should not be expelled for the vindication of Utah's law, violated by certain Mormons continuing polygamous relations

with Senator Smoot's consent or approval—supposing he did consent or approve—for Utah, without being ignorant of the facts, elected him, and the Senate would not be justified in going out of its way to enforce respect for the formerly expressed will of Utah embodied in its law against polygamous relations by defeating its later expressed will shown in its electing Smoot.

For what, then, should he be expelled and Utah be deprived of a Senatorial vote?

Is it for his violating or consenting to or approving the violation of Federal law?

There is no Federal law against polygamy or polygamous relations applicable to Utah, now that Utah is a State, and when she was admitted to the Union of States it was known that there would and could be none.

Why, then, I repeat, should the Senate expel Senator Smoot?

Because, first, it is claimed he is wicked in this, that some of his friends, having cohabited with several women before Utah became a State, are continuing to do so until death, and that he approves of them as officers of a church which does not chastise them for so doing; and, second, because he is a Mormon, and the Mormon Church is a hierarchy disloyal to our institutions, whose will he is bound to obey.

Mr. President, the Constitution provides that the Senate shall be the judge of the qualifications of its members; a majority of the Senate can determine whether or not a Senator possesses them. The Constitution also provides that the Senate may, with the concurrence of two-thirds, expel a member.

I have intentionally referred to the proposed action against Senator Smoot as expulsion. I do not think the Senate will seriously consider that any question is involved except one of expulsion, requiring a two-thirds vote. There is no question as to Senator Smoot possessing the qualifications prescribed by the Constitution, and therefore we can not deprive him of his seat by a majority vote. He was at the time of his election over 30 years of age and had been nine years a citizen of the United States, and when elected was an inhabitant of Utah. These are the only qualifications named in the Constitution, and it is not in our power to say to the States, "These are not enough; we require other qualifications," or to say that we can not trust the judgment of States in the selection of Senators, and we therefore insist upon the right to disapprove them for any reason.

This claim of right to disapprove is not even subject to any rule of the Senate specifying additional qualifications of which the States have notice at the time of selecting their Senators, but it is said to be absolute in each case as it arises, uncontrolled by any canon or theory whatever.

Anyone who takes the trouble to examine the history of the clause of the Constitution as to the qualifications of Senators must admit that it was the result of a compromise. The contention that the States should be the sole judges of the qualifications and character of their representatives in the Senate was acceded to with this limitation: A Senator must be 30 years of age, nine years a citizen of the United States, and an inhabitant of the State from which he is chosen. Subject to these limitations imposed by the Constitution, the States are left untrammeled in their right to choose their Senators. This constitutional provision secures a measure of maturity in counsel, and at least a presumption of interest in the welfare of the Nation and State.

By another provision—namely, that relating to expulsion—the Constitution enables the Senate to protect itself against improper characters by expelling them by a two-thirds vote if they are guilty of crime, offensive immorality, disloyalty, or gross impropriety during their term of service.

I specify these reasons because I can not imagine the Senate expelling a member for a cause not falling within one of them.

Mr. President, I would be false to the traditions of my State, forgetful of her history and the relations she has sustained to the birth, development, and defense of the National Government, if I failed to raise my voice in protest against an encroachment upon the rights reserved to the States when she so promptly, unconditionally, and unreservedly ratified the Constitution of the United States.

As Pennsylvania was the first to take steps to approve the Constitution, so I pray she will be the last to acquiesce in the invasion of rights involved in this heresy of Senatorial power to add to the constitutional qualifications of Senators and kindred modern heresies of constitutional construction.

The perfection of human liberty under law will only be attained under the American Constitution when each of the dual sovereignties within its sphere

exerts its powers to the utmost limits for the public weal; when the States and the artificial bodies they have created cease to deny and resist the rightful and full exercise of the national power over national affairs; when there are no attempts to encroach upon the undeniable reserved powers of the States for the aggrandizement of national power; when the people discriminate between wise policies designed to meet the imperative needs of modern conditions and demagogic assaults upon the foundations of the Republic for political or personal purposes; when the people shall not be vexed by unnecessary legislation about their daily affairs, and normal conditions are undisturbed by ceaseless agitations—agitations fomented by ignorance and insincerity and misrepresenting those just and constitutional policies of the time which had a due beginning, have a reason for their existence, and shall have a due ending when their work is accomplished.

Mr. President, I know no tenet in the new propaganda of constitutional construction that begins to contain the danger to our country involved in the contention that a Senator of the United States may be deprived of his seat whenever the majority of the Senate concludes that there are doctrines taught, or have been taught in the past, by some church organization to which he belongs which that majority believes to be, or have been, dangerous.

It is an easy step after the first one is taken, because of a man's religion, to take the next and logical one of exclusion because of a man's politics, and then because of his notions upon economics, and then because of his attitude toward certain legislation. Identically the same argument can be made mutatis mutandis in support of the Senate's power in all these instances as is now advanced, namely, our duty to guard and protect the Senate from the contagion of false doctrine.

I know of no defect in the plain rule of the Constitution for which I am contending. I know of no case it does not reach. I can not see that any danger to the Senate lies in the fact that an improper character can not be expelled without a two-thirds vote. It requires the unanimous vote of a jury to convict a man accused of crime; it should require, and I believe that it does require, a two-thirds vote to eject a Senator from his position of honor and power, to which he has been elected by a sovereign State.

The simple constitutional requirements of qualification do not in any way involve the moral quality of the man; they relate to facts outside the realm of ethical consideration and are requirements of fact easily established. Properly enough, therefore, as no sectional, partisan, or religious feeling could attach itself to an issue as to whether or not a man is 30 years of age, had been a citizen of the United States and an inhabitant of a State for the periods prescribed, the decision as to their existence rests with a majority of the Senate. When, however, a different issue is raised, dehorts the Constitution, upon allegations of unfitness, challenging the moral character of a Senator, involving a review of questions considered and settled in the Senator's favor by the action of his State in electing him, then the situation is wholly changed and a different function is to be performed by the Senate, calling for its proper exercise the highest delicacy and discretion in reviewing the action of another sovereignty.

If I were asked to state concisely the true theory of the Constitution upon this important point, I would unhesitatingly say:

First. That the Constitution undertakes to prescribe no moral or mental qualification, and in respect to such qualifications as it does prescribe the Senate by a majority vote shall judge of their existence in each case, whether the question is raised before or after the Senator has taken his seat.

Second. That as to all matters affecting a man's moral or mental fitness the States are to be the judges in the first instance, subject, however, to the power of the Senate to reverse their judgment by a two-thirds vote of expulsion when an offense or an offensive status extends into the period of Senatorial service, and such a question can only be made after the Senator has taken his seat.

If to this it is objected that it contemplates admitting a man who may be immediately expelled, I reply that it is hardly proper to adopt a rule of constitutional construction and Senatorial action based upon the theory that the States will send criminals or idiots to the Senate. Besides, it does not seem to me to be conceding much to a State, after it has deliberately and solemnly elected a Senator after the fullest consideration of his merits, to concede on the first blush of the business the State's intelligent and honorable conduct by allowing its chosen representative admission to the body to which he is accredited.

Small wonder, Mr. President, that Mr. Justice Brewer, of the Supreme Court of the United States, speaking as recently as August, 1906, to the Virginia Bar Association at Hot Springs, Va., after reviewing some of the current heresies of the day in regard to the Constitution and specifying some of the instances in which they were sought to be applied, remarked:

The Constitution says that no person shall be a Senator of the United States who is not 30 years of age, nine years a citizen of the United States, and when elected an inhabitant of the State for which he shall be chosen. Now, the contention is that although these are the only qualifications named in the Constitution the Senate can attach other and different qualifications.

This which follows turns to another point, but I read it because I want to draw his conclusion:

Because a manufacturer may intend to dispose of some of his products in interstate traffic it is said that Congress has the right to supervise the entire action of his manufacturing establishment. Inasmuch as it is difficult to draw the line in our great industries between that commerce which is wholly within the State and that which is carried on between the States, the contention is that Congress may take control of the entire industry, the greater power of the nation swallowing up the smaller power of the States. I might go on and enumerate many other illustrations, but these serve my purpose.

Is there not danger in this tendency, and may we not wisely consider whether it ought not to be stayed?

As regards Senator SMOOT, all have agreed that he is a man of unblemished character, possessing every constitutional qualification as a Senator of the United States. What, then, is the charge against him?

Mr. BURROWS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Michigan?

Mr. KNOX. I do.

Mr. BURROWS. I understand the contention of the Senator from Pennsylvania to be that a sitting member of this body 30 years of age, nine years a citizen of the United States, and an inhabitant of the State from which he is chosen can not be dispossessed of his seat except by expulsion, which requires a two-thirds vote. Am I correct?

Mr. KNOX. The Senator from Michigan has my theory exactly, unless there is some want of constitutional qualification or some irregularity in his election.

We may as well go to the root of the matter at once. It is only this: He is a member and officer of the Mormon Church—nothing more. There is no other charge brought against him. All other charges are included in or grew out of the fact that he is a Mormon and one of the advisory counsel to the presidency of that church. Clearly, that in itself can not disqualify him in this Government, where, as Mr. Justice Story said:

The Catholic and the Protestant, the Calvanist and the Arminian, the Jew and the infidel may sit down at the common table of the national councils without any inquisition into their faith or mode of worship.

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Texas?

Mr. KNOX. I do.

Mr. CULBERSON. I simply desire to ask the Senator a question for information. He states that the only charge against the Senator from Utah is that he is a member of the Mormon Church. I read a few questions and answers at page 248 of volume 5 of the hearings before the Committee on Privileges and Elections:

Senator OVERMAN. You think the laws of God are superior to the laws of man?

Senator SMOOT. I think the laws of God, upon the conscience of man, are superior. I do, Mr. Senator.

Senator OVERMAN. You think the laws of God, as revealed to Joseph Smith and accepted by the church, would be binding upon the members of the church superior to the laws of the land?

Senator SMOOT. I think it would be binding upon Joseph Smith.

Senator OVERMAN. Well?

Senator SMOOT. And I think if a revelation were given to me, and I knew it was from God, that that law of God would be more binding upon me, possibly, than a law of the land, and I would have to do what God told me, if I was a Christian.

Senator OVERMAN. I speak of a law—

Senator SMOOT. But I want to say this, Mr. Senator. I would want to know, and to know positively, that it was a revelation from God.

Senator OVERMAN. I was not speaking—

Senator SMOOT. And then I would further state this, that if it conflicted with the law of my country in which I lived, I would go to some other country where it would not conflict.

I read that, Mr. President, for the purpose of inquiring of the Senator, to whose speech I am listening with great interest, whether there is not a charge against the Senator from Utah that he holds the law of revelation in temporal affairs superior to the law of the land?

Mr. KNOX. Mr. President, the statement that I made is that all of the other charges are collateral and grow out of the charge that Senator Smoot is a Mormon; and I propose, before I finish, to run into every one of those collateral charges, including the one to which the Senator from Texas has referred in the testimony he has just read. There is a specific charge, as I have already stated, that the Mormon Church is a hierarchy, or rather a theocracy, because a hierarchy is no offense. Every church that has a priesthood and bishops has what may be called a "hierarchy"; but hierarchy deals only with spiritual dominion, while a theocracy—and that is what it is charged that this church is—as we all know, is one where the priests having political power claimed direction from on high. But I will come to every one of those questions in due time, if the Senator will permit me to pass on in my own way.

It is said, however, that the Mormon Church is a theocracy, a hierarchy, a government of priests claiming to rule by divine authority in matters temporal as well as spiritual, whom all its adherents must obey absolutely, even to the disregard of the laws of the land, if they should conflict with each other; that every Mormon's allegiance is first to his church and secondly to his country; that the kingdom of God, as it is termed, is the only legal government that can exist in any part of the universe, and that all other governments are illegal and unauthorized; and that Senator Smoot, being a member and an officer of this organization, is dominated thereby and would yield obedience to the dictates of his church rather than to the laws of the land, and therefore is not and can not be a loyal citizen of the United States, and consequently is not qualified to sit as a Senator of the United States.

I think my recital of the charges covers exactly what the Senator from Texas suggested by his question.

One thing must be borne in mind in connection with these claims, and that is that we are to take into account only what the Mormon Church is teaching and practicing to-day and not what it taught and did twenty to fifty years ago.

Now, is it true that Mormons must absolutely obey the church even to the disregard of the law of the land; that a Mormon's allegiance is first to his church and secondly to his country, and that as a Senator Mr. Smoot would obey the dictates of his church rather than the laws of the land?

I inquire again, is this true? For if it is, Senator Smoot should be expelled for disloyalty to his country, established by the fact of a higher allegiance.

Of course, Mr. President, no one is unreasonable enough to ask the Senate to assume these charges to be true or to ask us to deprive Utah of her Senatorial choice unless they are proven to be true.

It would seem in respect of charges of this nature that they could be easily and overwhelmingly proven if true, because of the nature of the offense and the publicity that would be incident to its commission.

If you want to know as to the loyalty of a great number of people organized into an ecclesiastical body, whose doctrines are publicly promulgated and whose actions may be daily witnessed, it seems to me the obvious way to ascertain the truth would be to examine their doctrines and search into their acts. Their teachings and their acts ought to furnish the best evidence of which the case in its nature is susceptible.

It ought to be very easy to ascertain if the Mormon Church requires a member to obey its law rather than the law of the land, and to ascertain if it required a Mormon Senator or other public officer to submit his official judgment to church dictation.

The thing to do in such a case is to examine the doctrines of the church as they are now promulgated, and if you find they teach no such disloyalty as is charged, but quite to the contrary, then, if still dubious, the next step would seem to be to look over the records of the various Mormon officers who have served Utah since her admission as a State and see if such disloyalty can be shown as a fact.

A third step might be taken for the benefit of those who insist upon the utmost suspicion as against absence of any legal proof, and that is to subject each Mormon officer to an inquisition as to his mental state of loyalty.

I propose to submit these charges to all three tests.

Now, how does the Mormon Church treat this duty of loyalty to the country in its published doctrines and revelations?

I find upon an examination of the Articles of Faith of the Mormon Church and its book of doctrines and covenants that the Mormon doctrine relating to human governments and the duties of citizenship is set out in great detail.

I quote church articles of faith, No. 12:

We believe in being subject to kings, presidents, rulers, and magistrates; in obeying, honoring, and sustaining the law.

Also, from the Doctrines and Covenants, pages 483-485, verses 1 to 11:

1. We believe that governments were instituted of God for the benefit of man, and that He holds men accountable for their acts in relation to them, either in making laws or administering them, for the good and safety of society.

I will not read some half dozen other articles of this creed. I will ask, however, that they may be printed in the Record as they appear upon my notes.

The VICE-PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

2. We believe that no government can exist in peace, except such laws are framed and held inviolate as will secure to each individual the free exercise of conscience, the right and control of property, and the protection of life.

3. We believe that all governments necessarily require civil officers and magistrates to enforce the laws of the same, and that such as will administer the law in equity and justice should be sought for and upheld by the voice of the people (if a republic) or the will of the sovereign.

4. We believe that religion is instituted of God and that men are amenable to Him, and to Him only, for the exercise of it, unless their religious opinions prompt them to infringe upon the rights and liberties of others; but we do not believe that human law has a right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; that the civil magistrate should restrain crime, but never control conscience; should punish guilt, but never suppress the freedom of the soul.

5. We believe that all men are bound to sustain and uphold the respective governments in which they reside, while protected in their inherent and inalienable rights by the laws of such governments; and that sedition and rebellion are unbecoming every citizen thus protected, and should be punished accordingly; and that all governments have a right to enact such laws as in their own judgment are best calculated to secure the public interest; at the same time, however, holding sacred the freedom of conscience.

6. We believe that every man should be honored in his station, rulers and magistrates as such being placed for the protection of the innocent and the punishment of the guilty, and that to the laws all owe respect and deference, as without them peace and harmony would be supplanted by anarchy and terror, human laws being instituted for the express purpose of regulating our interests as individuals and nations, between man and man, and divine laws given of heaven, prescribing rules on spiritual concerns, for faith and worship, both to be answered by man to his Maker.

7. We believe that rulers, states, and governments have a right and are bound to enact laws for the protection of all citizens in the free exercise of their religious belief, but we do not believe that they have a right, in justice, to deprive citizens of this privilege or proscribe them in their opinions so long as a regard and reverence are shown to the laws and such religious opinions do not justify sedition nor conspiracy.

8. We believe that the commission of crime should be punished according to the nature of the offense; that murder, treason, robbery, theft, and the breach of the general peace in all respects should be punished according to their criminality and their tendency to evil among men by the laws of that government in which the offense is committed; and for the public peace and tranquillity all men should step forward and use their ability in bringing offenders against good laws to punishment.

9. We do not believe it just to mingle religious influence with civil government whereby one religious society is fostered and another proscribed in its spiritual privileges and the individual rights of its members as citizens denied.

10. We believe that all religious societies have a right to deal with their members for disorderly conduct according to the rules and regulations of such societies, provided that such dealings be for fellowship and good standing; but we do not believe that any religious society has authority to try men on the right of property or life, to take from them this world's goods, or to put them in jeopardy of either life or limb, neither to inflict any physical punishment upon them; they can only excommunicate them from their society and withdraw from them their fellowship.

Mr. DUBOIS. Mr. President—

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Idaho?

Mr. KNOX. Certainly.

Mr. DUBOIS. I should like to ask the Senator from Pennsylvania if these doctrines, some of which he has just read and others of which he will print, have always been the doctrines of the church?

Mr. KNOX. I stated a moment ago that it was not my intention to go into the ancient history of the Mormon Church. It is not my intention to go into what the Mormon Church taught and believed fifty years ago. The question is what it teaches and believes now, and that, in my judgment, is the only thing we have to do with. I have taken these excerpts from the book called "The Doctrines and Covenants," from pages 483 to 485.

Mr. DUBOIS. If the Senator will pardon me, that does not answer my

question. I should like to know if these doctrines from the Doctrines and Covenants, which the Senator has just read and others of which he is going to have printed, are the same doctrines which the church has always taught?

Mr. KNOX. I say I do not know, and I say I do not care. It is a matter wholly indifferent. Suppose they taught something wholly different fifty years ago! We are not testing this question by what the ancient Mormons taught or what the ancient Mormons believed or what concerned the ancient Mormons. We are testing it by what applies to REED SMOOT, the man who comes here with the credentials of the State of Utah.

Mr. DUBOIS. I should like to ask the Senator from Pennsylvania if he knows whether these doctrines and covenants, tenets of the church, have been changed?

Mr. KNOX. In reply to that question I will say I know nothing more than that I find what I have read in the Doctrines and Covenants, upon the pages indicated and at the places indicated. If they are not the doctrines and covenants of the Mormon Church, then I am deceived. If they are not the doctrines and covenants of the Mormon Church, I hope the Senator will take the trouble to reply to them in his own time.

Mr. DUBOIS. I do not want to interrupt the Senator from Pennsylvania against his will, but he is quoting the Doctrines and Covenants, and I want to know if they are the same doctrines which they have heretofore taught. In other words, whether there has been any change. All the testimony shows they have not been changed. They are the same now as when promulgated. They are no more and no less binding now than in the past.

Mr. KNOX. I have already answered that question to the best of my ability.

Mr. BEVERIDGE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Indiana?

Mr. KNOX. Certainly.

Mr. BEVERIDGE. So far as the religious belief itself is concerned—not acts but beliefs—taking the religious belief alone, I ask the Senator from Pennsylvania, in accordance with the questions asked by the Senator from Idaho, whether in fact we are not forbidden to inquire into a man's religious belief separate from any acts?

Mr. DUBOIS rose.

Mr. BEVERIDGE. I am asking the Senator from Pennsylvania.

Mr. KNOX. Absolutely, and I propose to follow up—

Mr. DUBOIS. Mr. President—

Mr. KNOX. The Senator from Indiana asked me the question.

Mr. BEVERIDGE. I should like the Senator from Pennsylvania to answer it.

Mr. DUBOIS. Mr. President—

Mr. KNOX. I must decline to yield further to the Senator from Idaho, especially as the Senator from Indiana has asked me a question which he insists that I shall answer.

Mr. DUBOIS. He stated my position—

The VICE-PRESIDENT. The Senator from Pennsylvania declines to yield further to the Senator from Idaho.

Mr. KNOX. In answer to the question of the Senator from Indiana, and without the slightest reference to the question of the Senator from Idaho, which I have told the Senator I have answered to the best of my ability again and again, I will say that if the Senate will have patience with me, I will not only show that these are the doctrines and covenants of the Mormon Church, *prima facie* at least, subject to anyone challenging their authenticity, but I will show specifically by the testimony in this case that they are the doctrines at the present time and are the doctrines held by Senator SMOOT.

Mr. President, it seems to me it would be difficult to draft a creed more nearly antipodal to the teachings of a theocracy than the creed of the Mormon Church I have just read. A theocracy is defined by Webster to be "the exercise of political authority by priests representing the Deity." The creed of the Mormon Church not only disclaims the right to exercise political authority, but enjoins obedience to the authority of the State in all things.

So much, Mr. President, for the first test I proposed to apply, namely, the ascertainment of what the Mormon Church teaches, in reply to the charge that it is a theocracy and teaches obedience to the church, even to the disregard of the law of the land.

Now, let us inquire, as I have proposed, if the practices of the church in this respect have been consistent with its teachings. That is, have Mormon office-holders disregarded the laws of the land and substituted therefor the will of the church. There has not been the suggestion of an attempt to establish any such fact.

But, Mr. President, it is claimed that the head of the Mormon Church may and does at times receive divine revelations in respect of a variety of subjects, and therefore is liable at any moment to receive one enjoining disloyalty to the United States. Suppose he does. None of these revelations are in any way binding upon the church until it has been ratified by a vote of the whole congregation or convention of its members, and even then it is not binding as against the law of the land. Senator Smoot's testimony touching this is very clear. He states that the members of his church are free agents, and that any one of them has the right to disobey any divine revelation given to the head of the church, even though submitted to the church conference and accepted by it; that it is the fundamental and primary law of the Mormon Church that its members must obey the law of the land, and there is a revelation to that effect; and that as between a revelation and the law of the land it is the duty of the members of that church to obey the law of the land; but he did testify that if he himself should receive a revelation commanding him to disobey the law of the land, and if he were sure that God had spoken to him, he would feel the obligation to obey it, but that he would leave the country and go where the law of the land would not conflict. His testimony on this point is as follows (Vol. III, pp. 251-253) :

Senator BEVERIDGE. I merely want to continue a question which was put a moment ago, putting it in its simplest possible form. As between the law of the land and any revelation, which is binding upon the members of your church?

Senator SMOOT. What would I do?

Senator BEVERIDGE. No, sir. I did not ask what you would do. I ask you as an officer of the church, to answer my question. As between a revelation and the law of the land, which is binding upon the members of the church?

Senator SMOOT. The law of the land in which we live.

Senator BEVERIDGE. Do I understand you to say that there is no law, rule, or ordinance of your church by which a revelation from above, even when confirmed by your people, is superior to the law of the land?

Senator SMOOT. I do not think it could be, Senator.

Senator BEVERIDGE. My mind was directed to that very point. It is rather important.

Senator SMOOT. We have a revelation in the doctrines and covenants that it is mandatory upon all members of our church to honor and obey the law of the land.

Senator OVERMAN. Right here—

Senator BEVERIDGE. Pardon me. Suppose a revelation is received, as you described a moment ago it might be, and suppose, in addition to its having been received in that way, it is confirmed, or whatever term you use, by the people, and then that revelation, thus confirmed by the people, is in conflict with the law of the land; which is binding?

Senator SMOOT. The law of the land.

Senator OVERMAN. I understand you to say, if I apprehend your answer correctly, that when a divine revelation is given to the president of the church, is submitted to the church conference, and is accepted by the conference, then, as a free agent, any member of the church has a right to disobey it?

Senator SMOOT. They have, Senator.

Senator KNOX. Senator Smoot, let me ask you what I consider a question that should have followed Senator BEVERIDGE's question. I understand you, then, that fundamentally and primarily it is a law of the Mormon Church that you must obey the law of the land?

Senator SMOOT. That is correct.

Senator KNOX. If there should be a revelation now that commanded you to disobey the law of the land, that revelation would be in conflict with one of the fundamental principles of your religion?

Senator SMOOT. It would.

Senator KNOX. Is that correct?

Senator SMOOT. That is correct.

Senator KNOX. That is all.

I pause here long enough to observe that this, in connection with the creed I have read, conclusively shows that the Mormon church is not a theocracy, as the essential fact in a theocracy is that the will of the deity as promulgated by priests is the highest political authority.

Senator FORAKER. I understood you to say that rather than to undertake to obey such a revelation you would leave the country and go where the law of the land would permit obedience to the revelation?

Senator SMOOT. Yes; if God had given it to me myself then I would, because I would feel then that I was under direct obligation to my Maker to carry out what He revealed directly to me, and if I could not do it in this country I would go to some other country where I could.

Mr. TAYLER. So that you would, of course, obey the revelation coming from God?

Senator SMOOT. If I knew that God had spoken to me, I would obey it.

Mr. TAYLER. Suppose the revelation commanded of God was that you should do a certain thing and also stay in the country?

Senator SMOOT. Well, I do not think the God I worship is such a God.

This recital, which reads like a chapter from the Spanish inquisition, contains Senator Smoot's belief as regards his duty in case of any possible conflict between the law of the land and any revelation which might be received by his church or by himself directly. I quote his testimony because it states the whole case so far as it concerns us. What finer or more accurate declaration of a man's duty in relation God, to the church, and to his country could there possibly be? His whole testimony and utterance is of that careful, conscientious, and reverent character, not seeking in any way to shield himself from the just consequences of any of his positions, which must have indelibly impressed upon the minds of everyone who heard him the conviction of the absolute truthfulness and reliability of his answers. He, then, clearly states under oath that he is not bound to obey, and will not obey, any revelation of his church in conflict with the laws of the land. His answer is absolutely conclusive upon this matter. He himself, and he alone, knows the exact state of his mind and his purposes in this regard, and it is this exact state of his mind that is the controlling point. The truthfulness and sincerity of his statements have not been questioned. If they could be questioned without any evidence of overt act or statement on his part to the contrary, then the sincerity of the oath of every Senator present might be similarly questioned. I think this fully meets the requirements of the third test I proposed, to wit, a rigid inquiry into the mental attitude of the individual as to loyalty.

I will not discuss the question as to the particular danger arising from Senator Smoot's belief that he may receive a direct revelation from God; that he is capable of being in such conscious fellowship with God as to be aware of His presence, or hear His voice, and in that personal relation to receive the wish and command of God, and that for this reason he is constitutionally incapable of being a part of a man-made government. This contention of protestants, which will be found on page 612 of volume 3 of the testimony, in an answer by Mr. Tayler, counsel for protestants, to a question propounded by me, is in my judgment too absurd to demand any serious consideration. Every Christian prays to God for guidance in matters both spiritual and temporal, and particularly in times of perplexity and doubt, and many believe that they receive such guidance.

If the Almighty can not speak to Smoot, he could not have spoken to Moses or Mahomet or Joseph Smith or Brigham Young, as the case may be, and as people variously believe. I am not prepared to attack the foundations of all religions based on revelation by denying that God has the power to reveal His will to man. I am not prepared to deny that the Omnipotent Creator of the Universe lacks the power to speak to one of His creatures, if such is His will, nor am I disposed to challenge the wisdom of the fathers of this Government who provided that in such matters every man should be protected in his individual belief.

In this country of ours religious belief is not an offense or a defense. A man may believe what he chooses without fear of molestation from the law or deprivation of his civil rights. On the other hand, his religious belief will not avail him as a protection if he violates the law.

Senator Smoot merely says that he believes *it is possible* that he might receive a revelation. That is all. From the importance placed upon this matter by counsel for protestants one would be led to think that Senator Smoot had been in the habit of receiving such revelations every day or so. As a matter of fact, he has never received one, and so testified. He merely asserts that he believes that he is capable of receiving one. Surely this is not a danger of such magnitude and of such an imminent character as to justify expelling him from the United States Senate, especially since he asserts under oath that in case he should have such a revelation, and it should command him to break a law of the United States, he would leave the country before violating the law.

It was stated by counsel for the protestants that "the chief charge against Senator Smoot is that he "encourages, countenances, and connives at the violation of law." (Vol. 3, p. 611.) Senator Smoot is one of the twelve apostles of the Mormon Church, and as such he has voted to sustain in office members of the church who continue to cohabit with wives which were taken prior to the manifesto of 1890 and the admission of the State into the Union. It is claimed that by thus voting to sustain them in the church he encourages, countenances, and connives at a violation of law.

It will be borne in mind that in doing this Mr. Smoot merely approved of their fitness and qualifications for the particular positions they occupied. He

did not in any way pass upon the legality of their acts, but merely upon the moral quality of the acts *as measured by the standards of that church, and therefore of their fitness to hold the exalted positions which they occupied.*

Mr. BEVERIDGE. They not being civilian positions.

Mr. KNOX. Being religious positions, as I have indicated.

He in no way countenanced or encouraged their illegal acts. With that he had nothing to do. His own views and conduct in regard to that subject were well known, and prevented the possibility of any misunderstanding on that point. He merely passed upon their qualifications with respect to the particular church positions which they then held and the advisability of retaining them in those offices. Some officers of the Mormon Church hold official positions in corporations. Is a stockholder who votes for them an accessory if they live in polygamous relations?

It will also be noted that those officers were not violating any law of the United States, but merely a State law, which all, Gentile and Mormon alike, knew to be a dead letter. The Mormon Church and the State of Utah are in the same position on the subject of polygamous cohabitation. The church law does not prohibit it, and the State law against it is not enforced. Senator Smoot is no more culpable in not denouncing the practice and in not prosecuting offenders than any other citizen of his State. Even during the time that Utah was still a Territory, immediately preceding the adoption of the constitution and its admission as a State, from 1890, the date of the manifesto, to 1896, and while the Territory was still under Federal control, when hundreds of men were living in open polygamy, there were scarcely any prosecutions (3-709). Judge McCarty, who was at that time assistant United States district attorney, testified before the committee (2-887, 888) that there was no disposition on the part of the prosecutors or on the part of the people to complain, and that his understanding was that instructions had been sent from Washington to the district attorney that he was *not* to interfere with men who were living in polygamous cohabitation if they had taken their wives before the manifesto.

After the adoption of the constitution this matter was left with the State to deal with, and it was dealt with in precisely the same way the United States had dealt with it for the six years preceding. The State enacted a law against polygamous cohabitation, but never enforced it, and says in effect "if you do not flaunt this relation so as to attract public notice, nothing will be said about it."

In the face of all this, it is now contended that while neither the officers of the United States nor of the State took any active interest in the enforcement of the law in respect to polygamous cohabitation, and while public sentiment and the general understanding was against such enforcement, that Senator Smoot, himself a Mormon, should be expelled from the Senate of the United States merely because he voted to sustain in their positions church officials who violated that statute and that by so doing he directly encouraged and connived at a defiant violation of the law.

He no more encouraged and connived at a violation of the law than has many of the Presidents of the United States time and time again in appointing to office Mormons, including governors, postmasters, etc., who have maintained the polygamous relation. And I will say further that if Senator Smoot is disqualified for this reason, then for a very similar reason, and measured by the same standard, every man entertaining the same tolerant views is disqualified.

The only thing alleged against Smoot is that he lets this sleeping dog lie. If this disqualifies him, every citizen of Utah, Mormon and Gentile, is likewise disqualified, who likewise refrains from prosecuting the old Mormon polygamists—and they all do.

At the beginning of this inquiry it was expected that it would be shown by protestants that a large number of polygamous marriages had taken place since the manifesto and the admission of the State, and that the church actually connived at and approved of such marriages, but what is the fact? Notwithstanding the most assiduous inquiry and research not one case has been shown of a polygamous marriage occurring in Utah after the admission of that State.

Other claims of disloyalty of the Mormon Church are founded upon certain features of the endowment ceremonies and upon the contention that candidates for political offices in Utah must receive the approval of the Mormon Church or they can not be elected, and that Senator Smoot asked and received the permission of that church before he became a candidate for the Senatorship.

This latter contention grows out of a rule of the church which was formerly merely a practice, but is now clearly stated in the form of a rule, so that there

may be no doubt as to what the church's position is in this respect. The rule is self-explanatory and will be found on pages 168 to 171 of volume 1 of the proceedings. (See also the remarks of counsel, vol. 3, pp. 656-658.) It is nothing more than a leave of absence, and applies not to the public generally, but only to officers of the church who have taken upon themselves obligations and duties which would be interfered with by the additional duties of a political character. In such a situation it is perfectly competent and proper for the church to be consulted in order that it may determine whether the added duties are of such a character as will unduly interfere with church work. There is nothing compulsory about this approval or permission. Each officer has a perfect right to resign from his church position and become a candidate without submitting the matter to the church at all. It is only as he may desire to retain his church connection that the permission of the church is essential. The rule applies to church officers only, and not to lay members.

This is no more than would be expected of any Protestant minister. The same thing has occurred in that very State in regard to a Methodist minister whom it was desired should become a candidate on the Republican ticket for the constitutional convention. Justice McCarty refers to this incident in his testimony (vol. 2, pp. 891-892). The minister's name was Miller, and he resided at Monroe, Utah. Before being nominated he stated that it would be necessary for him to communicate with Doctor Iliff, in charge of the Methodist mission in Utah, and obtain his consent. The "consent" was obtained, and no question as to the propriety of his action has ever been raised.

It is true that for political purposes both parties usually claim that their candidates have received the sanction of the Mormon Church, but that church is not responsible for the expedients resorted to by politicians.

With regard to the endowment ceremonies, or oath of vengeance, as it is called, it has not been shown with any degree of certainty what that obligation was. It was delivered orally, and those who have attempted to describe it have done so from their memories. It is claimed that it is an obligation to pray to God to avenge the death of the prophets upon this nation. This is strenuously denied. Others who have taken the oath have stated that they were not required to take and did not take any oath or obligation against any person or any country or government or kingdom or anything of the kind (vol. 1, pp. 436-437, 744; vol. 2, pp. 759, 773, etc.); that it was in the form of a lecture, founded upon the tenth verse of the sixth chapter of Revelations, which reads: "How long, O Lord, holy and true, dost Thou not judge and avenge our blood on them that dwell on the earth." Many have testified that there is no obligation inconsistent with the duties of good citizenship. At most, it was nothing more than an obligation to pray to the Almighty to avenge the death of the prophets upon this nation. In view of the fact that it is Almighty God who is to wreak this vengeance, the danger does not seem to be at all imminent. Whatever the exact nature of the oath, it was not shown that of the many who have taken it anyone had ever actually interested himself in wreaking this vengeance, nor was it shown that any person ever heard of anyone who had attempted it. On the other hand, the Mormons of Utah have enthusiastically taken up arms in defense of the nation in every time of danger and need.

So far as Senator Smoot is concerned, Mr Tayler, counsel for the protestants, states (vol. 1, pp. 103, 119, 121) that he makes no claim to his taking such an oath, and will not attempt to prove it. Senator Smoot himself testifies that he never took any oath to avenge anything, and that he took his oath as a Senator without any mental reservation whatever (vol. 3, pp. 184-185), and again, in his answer to the protest (vol. 1, p. 31), he states that he has never taken any oath or assumed any obligation controlling his duty under his oath as a Senator, but that he holds himself bound to obey and uphold the Constitution and laws of the United States, including the condition in reference to polygamy upon which the State of Utah was admitted into the Union.

Mr. President, polygamy is dying out. Polygamous marriages have ended in Utah. A few years are as nothing in the life of a state or nation, and in a few years persons plurally married before Utah's admission will be rare objects of curiosity.

As practical men, should we not be content with that?

If other religions have taught polygamy at one time and condemned it at another, why can we not be satisfied to see a reversal of the teachings and a gradual but sure extinction of polygamous practices among the members of the Mormon Church and call our being so satisfied no more than religious toleration?

If the Mormons are said to believe in a hierarchy more or less concerned with mundane affairs, they are not the only sect whose priesthood meddles with worldly affairs without the members being for that reason excluded from Federal offices.

And if prayers for vengeance for violence against prophets are required of Mormons and the history of the church is not unstained with deeds of blood, what Christian or Jewish sect has left out vengeance and has a bloodless history? The crusades and the wars of the sixteenth, seventeenth, and nineteenth centuries, and the old Jewish wars—numberless massacres and slaughters of heretics—these are not held to require the expulsion from the Senate of men who belong to the various Christian churches or are Jews.

It has been frequently said that Senator Smoot should be expelled from the Senate in order to protect the sanctity of the American home. I do not see how the sanctity of the American home is at stake in this issue. If the Mormon Church teaches polygamy and encourages its practice, surely the fact that Senator Smoot is a monogamist and has from his youth up set his face and lifted up his voice against polygamy is conclusive evidence that he is fighting by precept and example for the sanctity of the American home against his church and under circumstances requiring the greatest moral courage. If, on the other hand, the Mormon Church is not teaching and encouraging polygamy the argument that the sanctity of the American home is involved here utterly fails. You may take either position and it will lead to Senator Smoot's complete vindication and to the certain conclusion I have indicated, that the purity of the American home is not in jeopardy. You may take either horn of the dilemma. If the church is teaching polygamy Smoot is preaching and practicing monogamy. If the church is not teaching polygamy it is blameless, and the whole case against Smoot fails.

Mr. President, we are all sworn to support the Constitution of the United States. Personally I construe this to mean that I have solemnly obligated myself not to vote to deprive any person or State of any right guaranteed by that instrument.

Entertaining this view, and for the reasons I have stated, I could not yield to the importunities and in some cases the demands that I cast my vote for Senator Smoot's expulsion without deliberately violating my oath of office, without yielding my judgment to others as it is alleged Senator Smoot will yield his to the Mormon Church, and without converting my place here from one of honor to one of shame.

